

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend subsection (b)(129) of Section 7.50
And Section 8.00(b)
Title 14, California Code of Regulations (CCR)
Re: Napa River Special Regulations and Low Flow Restrictions

I. Date of Initial Statement of Reasons: August 28, 2006

II. Dates and Locations of Scheduled Hearings:

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| (a) | Notice Hearing: | Date: August 4, 2006
Location: Sacramento, CA |
| (b) | Discussion Hearing: | Date: October 6, 2006
Location: San Diego, CA |
| (c) | Discussion Hearing: | Date: November 3, 2006
Location: Redding, CA |
| (d) | Adoption Hearing: | Date: December 8, 2006
Location: Santa Monica, CA |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Presently the Napa River Special Regulations, Section 7.50(b)(129), Title 14, CCR, allow salmon fishing in the main stem from the Lincoln Bridge in Calistoga to the Trancas Bridge. The Napa Resource Conservation District (RCD) aquatic biologists have been doing stream habitat and fishery surveys in the Napa River for the last few years. The RCD believes there is significant Chinook spawning in the reach between the Lincoln Bridge in Calistoga and the Oakville Cross Road Bridge near Yountville. The RCD is concerned that the Napa River Chinook salmon run ranges from 300 to 600 fish, based on their own redd surveys. They are requesting the Department close this area to salmon fishing to protect the Chinook salmon redds.

The proposal would close the Napa River to salmon fishing year round between the Lincoln Bridge in Calistoga and the Oakville Cross Road Bridge near Yountville. Most of this reach is bordered by private land. This closure would result in a reduction of approximately 16 stream miles of river, and there is only one legal point for the public to access the river in this reach.

The Department at the RCD's request is proposing the Low Flow regulations (Section 8.00(b), Title 14, CCR) be revised to separate the Napa River from other Central Coast streams which rely on 500 cubic feet per second (cfs) minimum flow from the Russian River gauge near Guerneville. This proposal would use the Napa River gauge near the city of Napa with a 15 cfs minimum flow for the Napa River. This proposal would use the stream hydrology of the Napa River instead of the unrelated flows measured on the Russian River in a different watershed.

The RCD will provide the Department with the necessary flow trigger information every Wednesday morning to update the public low flow closure notice maintained by the Department. The minimum flow of 15 cfs is a conservative number based on qualitative field experience of the RCD's aquatic biologists doing stream habitat and fishery surveys in the Napa River for the last few years. They are concerned that the Napa River Chinook salmon run ranges from 300 to 600 fish, based on their own redd surveys. Based upon the RCD's information, Chinook salmon may find their upstream passage impeded at minimum flows below 15 cfs following Department fish passage criteria.

This proposed change in the low flow restrictions will allow the Napa River restrictions to accurately monitor low fish passage conditions. It will help protect spawning adults under low flow conditions, when the success of the run may be impaired due to the inability of adults to reach the spawning grounds upstream, and may allow a few more adults to survive to spawn if flows come up later in the season.

The Department supports both these RCD proposals.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Section(s) 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code.

Reference: Section(s) 200, 205, 206, 215 and 316.5, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

None.

- (e) Public Discussions of Proposed Regulations Prior to Notice publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendment.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternatives were identified.

- (b) No Change Alternative:

The no change alternative was considered and rejected because the regulations as currently written do not provide adequate protection for the anadromous salmonid stocks found in the Napa River.

- (c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or

would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal will provide additional protection for Chinook salmon.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

(h) Effect on Housing Costs: None.

Informative Digest/Policy Statement Overview

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